

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

RANDY BAKER,
REG. NO. 75188-079
V.
JOE DRIVER

§
§
§
§
§

C.A. NO. C-05-321

MEMORANDUM OPINION AND ORDER GRANTING APPLICATION
FOR LEAVE TO PROCEED
IN FORMA PAUPERIS AND COLLECTION ORDER

Came on for consideration the Petitioner/Appellant's Application for Leave to Proceed *In Forma Pauperis* on Appeal (D.E. 26). The financial information attached to petitioner's *in forma pauperis* application reflects that while petitioner cannot afford to prepay the \$255 appellate filing fee, he can pay the fee in installments without undue hardship. Petitioner's appeal is not governed by the Prison Litigation Reform Act, but there is no prohibition against collection of the appellate filing fee in installments where an inmate has the ability to do so without undue hardship.

Accordingly, the following order is entered:

1. The appellant is assessed an initial partial filing fee of \$20.00.
2. Thereafter, the appellant shall pay \$235.00, the balance of the \$255 filing fee, in periodic installments. The agency shall forward 20% of each deposit made to the plaintiff's account whenever the balance in the account exceeds \$10. This amount shall be collected from the appellant's trust account, when funds are available, and forwarded to the Clerk of the District Court.
3. The plaintiff shall sign all consents and other documents required by the agency having custody of plaintiff to authorize the necessary withdrawal from the plaintiff's inmate trust account.
4. The application for leave to proceed *in forma pauperis* on appeal pursuant to 28 U.S.C.

§ 1915 (D.E. 26) is GRANTED.

5. The Clerk of the Court shall send a copy of this Order to the Inmate Accounts Clerk, FCI Three Rivers, P.O. Box 4200, Three Rivers, Texas 78071.

NOTICE TO THE APPELLANT:

If you do not wish to pay the appellate filing fee as set forth in this Order, you must notify the Court in writing, by letter or motion, that you do not wish to prosecute the appeal. Your notice must be mailed within 30 days of the date of this Order.

ORDERED this 22nd day of March, 2006.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE